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July 10, 2017

VIA FEDERAL EXPRESS

Juan Fajardo, Esq.
United State Environmental Protection Agency
Region 2
290 Broadway Avenue
New York, New York 10007

Re: **Lower Passaic River Study Area ("LPRSA")**

RECEIVED
JUL 11 2017

Dear Mr. Fajardo:

We represent Elan Chemical Company ("Elan") at the above referenced site. We are writing as a follow up to the June 23, 2017 memorandum from various members of the LPRSA Cooperating Parties Group. As stated in that memorandum, Elan is interested in participating in the United States Environmental Protection Agency's ("EPA") efforts to identify additional parties that would be eligible for a second round of cash-out settlements for the lower 8.3 miles of the Lower Passaic River. In that regard, Elan offers the following site information for the EPA's consideration.

First and foremost, Elan stands in stark contrast to a significant number, if not the majority, of the other potentially responsible parties ("PRPs"). Elan is not associated with the release of dioxins, furans or PCBs into the Lower Passaic River. Elan is a manufacturer of natural and synthetic products for the food, fragrance and flavoring industry. While a substantial number of the PRP companies are very large, publicly owned companies that generate multi millions of dollars in profits every year, Elan is a very small, privately owned company that employs approximately 53 people. In 2016, Elan's net profits were approximately \$806,530.

Further, unlike many of the other companies that have a strong nexus to the Site, the EPA proofs allegedly tying Elan to the contamination in the Lower Passaic River are minimal at best and are grounded in speculation.

EPA relies upon two historical New Jersey Department of Environmental Protection ("NJDEP") inspection reports of the Elan facility and upstream sediment samples from the Passaic River. Pursuant to a NJDEP inspection report dated June 14, 1990, NJDEP inspectors documented a 6-inch discharge pipe running from the Elan property directly into the Passaic River. Elan's property consists of two contiguous tracts of land, purchased on two different dates. The property containing the pipe was not purchased until 1983 and was purchased from

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Consolidated Rail Corporation. This pipe was never used by Elan and was neither connected to any Elan operation nor was this pipe used by Elan for storm water control or discharge.

EPA alleges that any on-site contamination would have run-off into the Passaic River during floods that occurred in November 1992, November 1993 and November 1998. Again, this is only speculation and there is no direct evidence that there was run-off of contamination at the site. Moreover, these floods covered all of Doremus Avenue (where Elan and many of the other PRPs are located), so any floodwater would have picked up contaminants from the street and other facilities.

We respectfully request EPA afford Elan the same opportunity to discuss a potential settlement for the second round of cash-outs by the EPA. Of course, if the EPA would like any additional information or has any additional questions, we would be pleased to confer at your convenience.

Thank you for your consideration of the site information for Elan Chemical Company. Should you have any additional questions, please do not hesitate to contact the undersigned.

Very truly yours,


Randi Schillinger